

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,
Plaintiff

V.

**GREG ABBOTT, IN HIS
CAPACITY AS GOVERNOR OF
THE STATE OF TEXAS; AND
THE STATE OF TEXAS,**
Defendants

No. 1:23-CV-00853-DAE

ORDER

The Court held a status conference in this case two weeks ago. Dkt. 145. During that conference, the Court and the parties discussed the then-pending motions as well as the remaining motions the parties contemplated filing. *Id.* Given the limited amount of time remaining before the parties' final pretrial conference and trial, set for the beginning of next month, and to ensure the Court had sufficient time to consider the parties' filings and rule on them in advance of that date, the Court informed the parties that it would hear any remaining motions in a hearing set for July 25, 2024, and that the briefing for any such motion needed to be completed by July 19, 2024. *Id.* at 2. At that time, the State contemplated filing at least two additional *Daubert* motions and additional discovery-related motions; the U.S. expected to potentially file a *Daubert* of its own. *Id.* The Court closed the hearing by ordering the parties to confer on a reasonable briefing schedule for these remaining motions. *Id.*

Thirteen days passed before either party addressed this now-urgent scheduling question in a filing with the Court. In its opposed motion, the U.S. proposes a schedule for the motions the parties discussed at the July 2 scheduling conference. Dkt. 158. According to the U.S., the State's main complaint about the proposed schedule is that it sets a final deadline for the State to file additional motions beyond those discussed at the status conference. *Id.* at 2. As represented during the conference, the State has filed two additional *Daubert* motions. Dkts. 159, 160.

Given the urgent need to set a scheduling order, the need to resolve these remaining motions prior to the parties' final pretrial conference, and in exercise of the Court's "broad discretion and inherent authority to manage its docket,"¹ the Court will adopt the schedule below, adopting elements from both sides' proposals.

Accordingly, the Court **ORDERS** the following:

1. Each party may file no more than two additional *Daubert* and/or discovery motions. The Court declines the U.S.'s proposal to allow filing omnibus motions attempting to shoehorn a greater number of motions that what is contemplated here into a single filing.
2. The parties may not extend the Joint Advisory deadline.
3. Any motion must be filed by end of day Wednesday, July 17. Responses will be due by end of day Thursday, July 18. Replies will be due by end of day Friday, July 19. The parties' joint advisory on all motions, limited to 2 pages per side, will be due at noon on Monday, July 22.

¹ *In re Deepwater Horizon (Perez)*, 713 F. App'x 360, 362 (5th Cir. 2018) (unpublished) (per curiam).

Judge Ezra will retain the discretion to entertain motions filed after the deadlines set above. But the parties are on notice that any late-filed motions may not be considered by the Court. As the scheduling order makes clear, the final pretrial conference is intended to address the “proposed final pre-trial order, exhibits and witness lists, deposition designations, motions in limine, motions to exclude witnesses, and any proposed fact stipulations.” Dkt. 97, at 2.

SIGNED July 17, 2024.



DUSTIN M. HOWELL
UNITED STATES MAGISTRATE JUDGE